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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/563,364

07/18/2006

Norbert Weber

50234

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1609 7590 09/25/2007

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WASHINGTON,, DC 20036

EXAMINER

HOOK, JAMES F

ART UNIT

PAPER NUMBER

3754

MAIL DATE

DELIVERY MODE

09/25/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/563,364

Applicant(s)

WEBER, NORBERT

Examiner

James F. Hook

Art Unit

3754

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 January 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>1/4/06</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Priority

Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Claim Rejections - 35 USC § 112

A broad range or limitation together with a narrow range or limitation that falls within the broad range or limitation (in the same claim) is considered indefinite, since the resulting claim does not clearly set forth the metes and bounds of the patent protection desired. See MPEP § 2173.05(c). Note the explanation given by the Board of Patent Appeals and Interferences in *Ex parte Wu*, 10 USPQ2d 2031, 2033 (Bd. Pat. App. & Inter. 1989), as to where broad language is followed by "such as" and then narrow language. The Board stated that this can render a claim indefinite by raising a question or doubt as to whether the feature introduced by such language is (a) merely exemplary of the remainder of the claim, and therefore not required, or (b) a required feature of the claims. Note also, for example, the decisions of *Ex parte Steigewald*, 131 USPQ 74 (Bd. App. 1961); *Ex parte Hall*, 83 USPQ 38 (Bd. App. 1948); and *Ex parte Hasche*, 86 USPQ 481 (Bd. App. 1949). In the present instance, claim 1 recites the broad recitation "a hydraulic accumulator", and the claim also recites "especially piston-type accumulator" which is the narrower statement of the range/limitation.

A broad range or limitation together with a narrow range or limitation that falls within the broad range or limitation (in the same claim) is considered indefinite, since

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the resulting claim does not clearly set forth the metes and bounds of the patent protection desired. See MPEP § 2173.05(c). Note the explanation given by the Board of Patent Appeals and Interferences in *Ex parte Wu*, 10 USPQ2d 2031, 2033 (Bd. Pat. App. & Inter. 1989), as to where broad language is followed by "such as" and then narrow language. The Board stated that this can render a claim indefinite by raising a question or doubt as to whether the feature introduced by such language is (a) merely exemplary of the remainder of the claim, and therefore not required, or (b) a required feature of the claims. Note also, for example, the decisions of *Ex parte Steigewald*, 131 USPQ 74 (Bd. App. 1961); *Ex parte Hall*, 83 USPQ 38 (Bd. App. 1948); and *Ex parte Hasche*, 86 USPQ 481 (Bd. App. 1949). In the present instance, claim 1 recites the broad recitation "a separating element", and the claim also recites "especially in the form of a piston" which is the narrower statement of the range/limitation.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Weber (WO 02/40871) in view of Allen. The reference to Weber discloses the recited hydraulic piston accumulator comprising a housing 10, a piston 16 separating a gas chamber 12 from a fluid chamber 14, a valve block 24 having a smaller end inserted

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into the housing to close it off, a passageway near 40 extends into the housing through the valve block but is offset from the central axis of the housing to form a fluid carrying path and parallel thereto, as seen in figures, the valves can extend across the longitudinal axis, part of the fluid carrying path is screwed in to the valve block, it is considered a choice of mechanical expedients to connect the valve block to the housing using any known method including the old and well known method of using a screwed in section, the valve block has a flange portion to form a stop portion for the housing, in order for the accumulator to work it inherently is sealed and therefore inherently has a sealing part provided with the valve block, and where the valve can take many forms. The reference to Weber discloses all of the recited structure with the exception of using a ball valve with a handle. The reference to Allen discloses that it is old and well known to control flow into an accumulator using a ball type valve with a handle. It would have been obvious to one skilled in the art to modify the valve in Weber by substituting an equivalent valve such as a ball valve as suggested by Allen where Weber sets forth that different valves can be used thereby expecting success with other valves. With respect to the orientation of the valve and handle such is considered an obvious choice of mechanical expedients where the valve can be oriented in any direction as can the handle to meet the needs of the user where such requires only routine experimentation to arrive at optimum choices.

Claims 1, 4, and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Payne in view of Allen. The reference to Payne discloses the recited hydraulic accumulator comprising a housing 7, a piston 11 separating a gas chamber 40 from a

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fluid chamber 41, a valve block 21 having a smaller end inserted into the housing to close it off, a passageway near 40 extends into the housing through the valve block, the valve can extend across the longitudinal axis, part of the fluid carrying path is screwed in to the valve block, it is considered a choice of mechanical expedients to connect the valve block to the housing using any known method including the old and well known method of using a screwed in section, and in order for the accumulator to work it inherently is sealed and therefore inherently has a sealing part provided with the valve block. The reference to Payne discloses all of the recited structure with the exception of forming the valve of a ball type valve with a handle. The reference to Allen discloses that it is old and well known to control flow into an accumulator using a ball type valve with a handle. It would have been obvious to one skilled in the art to modify the valve in Payne by substituting an equivalent valve such as a ball valve as suggested by Allen such would provide an equivalent type of valve to provide a different control of the flow.

Claims 1-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gray in view of Weber (WO 02/40871). The reference to Gray discloses the recited hydraulic accumulator comprising a housing 14, a separating element 15 separating a gas chamber from a fluid chamber, a valve block 122 having a smaller end inserted into the housing to close it off and provided with a seal as seen in figure 6, a passageway extends into the housing through the valve block, the valve can extend across the longitudinal axis, part of the fluid carrying path is screwed in to the valve block, the valve block is screwed into the housing, where the valve is a ball valve 129, where the use of a handle to control is an alternate embodiment where it only requires routine skill in the

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art to use either a handle or automatic control of a valve, where the orientation of the valve and handle are also merely choices of mechanical expedients where the valve can be oriented in any direction as can the handle to meet the needs of the user where such requires only routine experimentation to arrive at optimum choices. The reference to Gray discloses all of the recited structure with the exception of forming the separating element as a piston and offsetting the passageway from the longitudinal axis. It would have been obvious to one skilled in the art to substitute a piston for the bag type accumulator separator as such is an old and well known equivalent type of separator used in accumulators and to offset the passageway as such would only be a choice of mechanical expedients as suggested by Weber, where such would allow for different control and is merely a choice of mechanical equivalents and expedients requiring only routine skill in the art and based upon the teachings of Weber one would expect success when using a piston as the separating element.

Conclusion

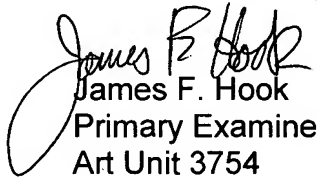
The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The reference to Kubota disclosing that ball valves are old and well known in the art.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James F. Hook whose telephone number is (571) 272-4903. The examiner can normally be reached on Monday to Wednesday, work at home Thursdays.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin Shaver can be reached on (571) 272-4720. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


James F. Hook
Primary Examiner
Art Unit 3754

JFH